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APPLICATION NO.	FILING DATE	FIRST NAMED INVENTOR	ATTORNEY DOCKET NO.	CONFIRMATION NO.
10/544,297	08/03/2005	Christopher James Lyddon	.05-629	8152

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EXAMINER

KEEFE, STEPHEN L

ART UNIT	PAPER NUMBER
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3671

SHORTENED STATUTORY PERIOD OF RESPONSE	MAIL DATE	DELIVERY MODE
3 MONTHS	01/30/2007	PAPER

Please find below and/or attached an Office communication concerning this application or proceeding.

If NO period for reply is specified above, the maximum statutory period will apply and will expire 6 MONTHS from the mailing date of this communication.

Office Action Summary

Application No.

10/544,297

Applicant(s)

LYDDON ET AL.

Examiner

Stephen L. Keefe

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-- The MAILING DATE of this communication appears on the cover sheet with the correspondence address --

Period for Reply

A SHORTENED STATUTORY PERIOD FOR REPLY IS SET TO EXPIRE 3 MONTH(S) OR THIRTY (30) DAYS, WHICHEVER IS LONGER, FROM THE MAILING DATE OF THIS COMMUNICATION.

- Extensions of time may be available under the provisions of 37 CFR 1.136(a). In no event, however, may a reply be timely filed after SIX (6) MONTHS from the mailing date of this communication.
- If NO period for reply is specified above, the maximum statutory period will apply and will expire SIX (6) MONTHS from the mailing date of this communication.
- Failure to reply within the set or extended period for reply will, by statute, cause the application to become ABANDONED (35 U.S.C. § 133). Any reply received by the Office later than three months after the mailing date of this communication, even if timely filed, may reduce any earned patent term adjustment. See 37 CFR 1.704(b).

Status

- 1) ☒ Responsive to communication(s) filed on 03 August 2005.
- 2a) ☐ This action is **FINAL**. 2b) ☒ This action is non-final.
- 3) ☐ Since this application is in condition for allowance except for formal matters, prosecution as to the merits is closed in accordance with the practice under *Ex parte Quayle*, 1935 C.D. 11, 453 O.G. 213.

Disposition of Claims

- 4) ☒ Claim(s) 1-17 and 22 is/are pending in the application.
- 4a) Of the above claim(s) _____ is/are withdrawn from consideration.
- 5) ☐ Claim(s) _____ is/are allowed.
- 6) ☒ Claim(s) 1-17 and 22 is/are rejected.
- 7) ☐ Claim(s) _____ is/are objected to.
- 8) ☒ Claim(s) 18-21 are subject to restriction and/or election requirement.

Application Papers

- 9) ☒ The specification is objected to by the Examiner.
- 10) ☒ The drawing(s) filed on 03 August 2005 is/are: a) ☒ accepted or b) ☐ objected to by the Examiner.
- Applicant may not request that any objection to the drawing(s) be held in abeyance. See 37 CFR 1.85(a).
- Replacement drawing sheet(s) including the correction is required if the drawing(s) is objected to. See 37 CFR 1.121(d).
- 11) ☐ The oath or declaration is objected to by the Examiner. Note the attached Office Action or form PTO-152.

Priority under 35 U.S.C. § 119

- 12) ☐ Acknowledgment is made of a claim for foreign priority under 35 U.S.C. § 119(a)-(d) or (f).
- a) ☐ All b) ☐ Some * c) ☐ None of:
1. ☐ Certified copies of the priority documents have been received.
 2. ☐ Certified copies of the priority documents have been received in Application No. _____.
 3. ☐ Copies of the certified copies of the priority documents have been received in this National Stage application from the International Bureau (PCT Rule 17.2(a)).

* See the attached detailed Office action for a list of the certified copies not received.

Attachment(s)

- | | |
|--|---|
| 1) <input checked="" type="checkbox"/> Notice of References Cited (PTO-892) | 4) <input type="checkbox"/> Interview Summary (PTO-413) |
| 2) <input type="checkbox"/> Notice of Draftsperson's Patent Drawing Review (PTO-948) | Paper No(s)/Mail Date. _____ |
| 3) <input checked="" type="checkbox"/> Information Disclosure Statement(s) (PTO/SB/08) | 5) <input type="checkbox"/> Notice of Informal Patent Application |
| Paper No(s)/Mail Date <u>1/18/2006</u> | 6) <input type="checkbox"/> Other: _____ |

DETAILED ACTION

Election/Restrictions

1. Restriction is required under 35 U.S.C. 121 and 372.

This application contains the following inventions or groups of inventions which are not so linked as to form a single general inventive concept under PCT Rule 13.1.

In accordance with 37 CFR 1.499, applicant is required, in reply to this action, to elect a single invention to which the claims must be restricted.

- I. Group I, claim(s) 1-17 and 22, drawn to a vehicle arresting device with a net.
- II. Group II, claim(s) 18-21, drawn to drawn to a spike assembly.

The inventions listed as Groups I and II do not relate to a single general inventive concept under PCT Rule 13.1 because, under PCT Rule 13.2, they lack the same or corresponding special technical features for the following reasons:

Inventions I and II are related as combination and subcombination. Inventions in this relationship are distinct if it can be shown that (1) the combination as claimed does not require the particulars of the subcombination as claimed for patentability, and (2) that the subcombination has utility by itself or in other combinations (MPEP § 806.05(c)). In the instant case, the combination as claimed does not require the particulars of the subcombination as claimed because the combination (Invention I) only requires spikes, not the particular spike disclosed in Invention II. The subcombination has separate utility as a vehicle arresting spike and does not require the net of the

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combination (Invention I). Invention I and II are therefore separate inventions, requiring separate patents.

2. The examiner has required restriction between combination and subcombination inventions. Where applicant elects a subcombination, and claims thereto are subsequently found allowable, any claim(s) depending from or otherwise requiring all the limitations of the allowable subcombination will be examined for patentability in accordance with 37 CFR 1.104. See MPEP § 821.04(a). Applicant is advised that if any claim presented in a continuation or divisional application is anticipated by, or includes all the limitations of, a claim that is allowable in the present application, such claim may be subject to provisional statutory and/or nonstatutory double patenting rejections over the claims of the instant application.

3. During a telephone conversation with A. Blair Hughes on January 23, 2007, a provisional election was made without traverse to prosecute the invention of I, claims 1-17 and 22. Affirmation of this election must be made by applicant in replying to this Office action. Claims 18-21 are withdrawn from further consideration by the examiner, 37 CFR 1.142(b), as being drawn to a non-elected invention.

Specification

4. A substitute specification in proper idiomatic English and in compliance with 37 CFR 1.52(a) and (b) is required. For example, the word "tyre" should be spelled as ~~tyre~~ throughout the specification. The substitute specification filed must be accompanied by a statement that it contains no new matter.

Claim Objections

5. Claims 11 and 17 are objected to because of the following informalities:

The word "tyre" in claim 11 (page 4, claim 11 line 3) should be ~~tyre~~.

The word "tyres" in claim 17 (page 5, claim 17 line 3) should be ~~tyres~~.

Appropriate correction is required.

Claim Rejections - 35 USC § 112

6. The following is a quotation of the second paragraph of 35 U.S.C. 112:

The specification shall conclude with one or more claims particularly pointing out and distinctly claiming the subject matter which the applicant regards as his invention.

Claims 1-12, 13-17, and 22 are rejected under 35 U.S.C. 112, second paragraph, as being indefinite for failing to particularly point out and distinctly claim the subject matter which applicant regards as the invention.

Claim 1 states that "the loops of said net being oriented with a longer dimension in the fore and aft direction than in the transverse direction," but this statement does not particularly point out and distinctly claim the net shown in the figures and disclosed in

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the specification. It is unclear, from the claim language, how the loops are to be arranged.

Claim 13 states that "to elongate the loops thereof in the intended fore and aft direction of the device while reducing the dimension of the net in the intended transverse direction," but this statement does not particularly point out and distinctly claim the method disclosed in the specification. It is unclear, from the claim language, in what manner the loops are to be elongated.

Claim Rejections - 35 USC § 102

7. The following is a quotation of the appropriate paragraphs of 35 U.S.C. 102 that form the basis for the rejections under this section made in this Office action:

A person shall be entitled to a patent unless –

(b) the invention was patented or described in a printed publication in this or a foreign country or in public use or on sale in this country, more than one year prior to the date of application for patent in the United States.

Claims 1-10, 12-16, and 22 are rejected under 35 U.S.C. 102(b) as being anticipated by Horton et al. (US 6,409,420).

Regarding claims 1, 13, and 16, Horton et al. discloses a vehicle arresting device comprising:

A net (22) adapted to be laid flat on the ground in the path of a vehicle to be arrested with one or more transverse rows of upwardly-directed spikes (52) attached to the net (22) at a leading portion thereof, the net loops being oriented with a longer dimension in the longitudinal direction than in the transverse direction, whereby the net is capable of substantial transverse elongation

(column 3, lines 12-19, 22-24 and Figures 2 and 7).

Regarding claims 2-4, Horton et al. discloses a vehicle arresting device wherein said spikes (52) are tipped with generally pyramidal barbs (59), the barbs (59) comprising a plurality of triangular side faces (51) separated by frustoconical side faces wherein the barbs (59) are undercut at their bases (60) (column 3, lines 50-60 and Figures 3 and 7).

Regarding claim 5, Horton et al. discloses a vehicle arresting device wherein said spikes (52) are comprised in spike assemblies comprising a base portion (58) whereby the respective spike (52) can be stood in an upwardly-directed orientation, a shaft portion (51) extending from the base portion (58) and a barb portion (59) at the tip of the shaft portion (51) (column 3, lines 50-60 and Figures 3 and 7).

Regarding claims 6 and 22, Horton et al. discloses a vehicle arresting device comprising a plurality of elongate elements (28) of flexible material extending transversely of the net at spaced locations and attached to the net (22) at its opposite side edges (column 3, lines 15-18, 22-24 and Figure 1).

Regarding claims 7 and 14, Horton et al. discloses a vehicle arresting device wherein one or more of said elongate elements (28) is threaded through loops of the net

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(intersection points) between said side edges but more positively attached to the net at said side edges (column 3, lines 31-38 and Figures 1 and 3).

Regarding claims 8 and 15, Horton et al. discloses a vehicle arresting device wherein one or more of said elongate elements (28) is held to the net between said side edges (26) by virtue of separable hook and loop material (58) but more positively attached to the net at said side edges (column 3, lines 53-59 and Figures 1 and 3).

Regarding claim 9, Horton et al. discloses a vehicle arresting device wherein said spikes (52) are comprised in spike assemblies comprising, a base portion (58) and an upwardly-directed shaft (51) portion and said spike assemblies are attached to a said elongate element (28) at a leading portion of the net by means of separable hook and loop material (58), elements of which material are interengaged with said base Portions (58) of respective spike assemblies located therebetween (column 3, lines 50-60 and Figures 3, 7).

Regarding claim 10, Horton et al. discloses a vehicle arresting device wherein said spike assemblies are attached to the net (22) by penetrating respective portions of the net (22) such that the material (62) of the net encircles the shaft portions (51) of those assemblies (column 3, lines 55-63 and Figures 3 and 7).

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Regarding claim 12, Horton et al. discloses a vehicle arresting device wherein said net (22) is formed (by 26) into a plurality of separate widthwise sections at said leading portion thereof (column 3, lines 31-36 and Figure 1).

Claim Rejections - 35 USC § 103

8. The following is a quotation of 35 U.S.C. 103(a) which forms the basis for all obviousness rejections set forth in this Office action:

(a) A patent may not be obtained though the invention is not identically disclosed or described as set forth in section 102 of this title, if the differences between the subject matter sought to be patented and the prior art are such that the subject matter as a whole would have been obvious at the time the invention was made to a person having ordinary skill in the art to which said subject matter pertains. Patentability shall not be negated by the manner in which the invention was made.

Claims 11 and 17 are rejected under 35 U.S.C. 103(a) as being unpatentable over Horton et al. ('420).

Horton et al. discloses a vehicle arresting device wherein said spikes (52) are surrounded by respective tubes (62) which are adapted to allow the penetration of the respective spikes into a vehicle tire running over such spikes (52) in use of the device (column 4, lines 19-24). It would have been obvious to one of ordinary skill in the art at the time the invention was made to use a tube adapted to be crushed to provide a "highly effective portable vehicle barrier which when deployed will disable and stop a moving vehicle" (column 1, lines 62-65).

Conclusion

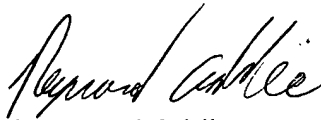
9. The prior art made of record and not relied upon is considered pertinent to applicant's disclosure. Ousterhout et al. (US 6,312,188), Scheider et al. (US 2002/0085880), Ben (US 6,322,285), Uotila (US 5,310,277), Gorlov (US 4,759,655), Marcotullio et al. (US 5,993,104), Jackson et al. (US 5,823,705), Jackson et al. (US 5,634,738), and Jackson et al. (US 5,624,203) provide additional concepts for vehicle arresting devices.

10. Any inquiry concerning this communication or earlier communications from the examiner should be directed to Stephen L. Keefe whose telephone number is 571-272-5652. The examiner can normally be reached on 8:00 am to 5:00 pm.

If attempts to reach the examiner by telephone are unsuccessful, the examiner's supervisor, Thomas B. Will can be reached on 571-272-6998. The fax phone number for the organization where this application or proceeding is assigned is 571-273-8300.

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Information regarding the status of an application may be obtained from the Patent Application Information Retrieval (PAIR) system. Status information for published applications may be obtained from either Private PAIR or Public PAIR. Status information for unpublished applications is available through Private PAIR only. For more information about the PAIR system, see <http://pair-direct.uspto.gov>. Should you have questions on access to the Private PAIR system, contact the Electronic Business Center (EBC) at 866-217-9197 (toll-free). If you would like assistance from a USPTO Customer Service Representative or access to the automated information system, call 800-786-9199 (IN USA OR CANADA) or 571-272-1000.



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1/24/07